

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MARY RIVARD,  
Plaintiff,

v.

HD DEVELOPMENT OF MARYLAND, INC.  
Defendant.

11/29/04 A 7:54

CIVIL ACTION NO.

04-40247

NOTICE OF REMOVAL

TO: THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

Home Depot, USA, Inc., incorrectly sued as HD Development of Maryland, Inc. ("Home Depot") files this Notice of Removal of the above-captioned action from Worcester Superior Court, Worcester County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. In support of its Notice of Removal, Home Depot states as follows:

1. As appears from Docket No. WOCV2004-02093 C on file in the Worcester Superior Court, the plaintiff filed a complaint which was served with a Summons upon CT Corporation System on November 8, 2004. A copy of the Summons, Complaint, and Statement of Damages is attached to this Notice as Exhibit "A".
2. According to the Complaint, this is a negligence action which alleges personal injuries resulting from a slip and fall on the defendant's property. The plaintiff claims that she sustained "severe, disabling and permanent injuries, has incurred medical expenses; and will continue to incur medical expenses in the future, has suffered and will continue to suffer pain of body and

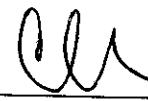
FILING FEE PAID:

RECEIPT # 404461  
AMOUNT \$ 150.00  
BY DPTY CLK RH  
DATE 11/29/04

mind, and has been and will be unable to carry on her usual duties and has been otherwise damaged."

3. In her Statement of Damages, the plaintiff itemizes damages totaling \$260,195.47.
4. The plaintiff is a resident of Hubbarston, Worcester County, Massachusetts.
5. Home Depot USA, Inc. is a Delaware corporation with a principal place of business in Atlanta, Georgia.
6. Jurisdiction is founded on the complete diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332. The amount in controversy, at least according to the plaintiff's allegation, exceeds \$75,000.
7. This Notice of Removal is being filed within the time period required by 28 U.S.C. § 1446(b).

HOME DEPOT USA, INC.  
By Its Attorneys,  
CAMPBELL CAMPBELL EDWARDS & CONROY  
PROFESSIONAL CORPORATION



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James M. Campbell, BBO # 541882  
Christopher A. Callanan, BBO# 630649  
One Constitution Plaza  
Boston, MA 02129  
617-241-3000

11/24/04

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on November 24, 2004.

John L. Roncone  
Roncone Law Offices, P.C.  
142 Main Street  
Leominster, MA 01453

  
Christopher A. Callanan

JS 44  
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MARY RIVARD

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** Worcester  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**  
John L. Roncone  
Roncone Law Offices P.C.  
142 Main Street, Leominster, MA 01453  
(978) 534-2444

**DEFENDANTS**HD DEVELOPMENT OF MARYLAND INC  
*1402465*

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff       3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant       4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)  
(For Diversity Cases Only)

PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding       2 Removed from State Court       3 Remanded from Appellate Court       4 Reinstated or Reopened      Transferred from  5 another district (specify)       6 Multidistrict Litigation       7 Magistrate Judgment

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input checked="" type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 180 Other Contract				<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 520 HABEAS CORPUS:	<input type="checkbox"/> 871 IRS — Third Party 28 USC 7609	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

The plaintiff alleges injury after slipping and falling in the defendant's premises.

<b>VII. REQUESTED IN COMPLAINT:</b>	<b>CHECK IF THIS IS A CLASS ACTION</b>	<b>DEMAND \$</b>	<b>CHECK YES only if demanded in complaint:</b>
	<input type="checkbox"/> UNDER F.R.C.P. 23		<b>JURY DEMAND:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

<b>VIII. RELATED CASE(S)</b> (See instructions: IF ANY None	JUDGE	DOCKET NUMBER
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DATE	SIGNATURE OF ATTORNEY OF RECORD
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11-24-04

*[Signature]*

FOR OFFICE USE ONLY	RECEIPT #	AMOUNT	APPLYING IPP	JUDGE	MAG. JUDGE
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RECEIPT #	AMOUNT	APPLYING IPP	JUDGE	MAG. JUDGE
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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY)  
Mary Rivard v. HD Development of Maryland, Inc.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

None

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES  NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES  NO   
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES  NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES  NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES  NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION  CENTRAL DIVISION  WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION  CENTRAL DIVISION  WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME James M. Campbell/Christopher A. Callanan

ADDRESS Campbell, Campbell Edwards & Conroy, 1 Constitution Plaza, Boston, MA 02129

TELEPHONE NO. 617-241-3000